

**U.S. DISTRICT COURT**  
**U.S. District Court, Western District of New York (Buffalo)**  
**CIVIL DOCKET FOR CASE #: 1:16-cv-00347-RJA-JJM**

Kuzma v. U.S. Department of Justice  
Assigned to: Hon. Richard J. Arcara  
Referred to: Hon. Jeremiah J. McCarthy  
Related Case: 1:19-cv-00597-RJA-JJM  
Cause: 05:552 Freedom of Information Act

Date Filed: 05/04/2016  
Jury Demand: None  
Nature of Suit: 895 Freedom of Information Act  
Jurisdiction: U.S. Government Defendant

**Plaintiff****Michael Kuzma**

represented by **Daire Brian Irwin**  
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**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

V.

**Defendant****U.S. Department of Justice**

represented by **Michael S. Cerrone**  
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**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
05/04/2016	<u>1</u>	COMPLAINT against U.S. Department of Justice, filed by Michael Kuzma. \$400.00 Receipt #50326(SG) (Entered: 05/05/2016)
05/04/2016		Summons Issued as to U.S. Department of Justice, U.S. Attorney and U.S. Attorney General (SG) (Entered: 05/05/2016)
05/05/2016		AUTOMATIC REFERRAL to Mediation The ADR Plan is available for download at <a href="http://www.nywd.uscourts.gov/alternative-dispute-resolution(SG)">http://www.nywd.uscourts.gov/alternative-dispute-resolution(SG)</a> (Entered: 05/05/2016)
06/04/2016	<u>2</u>	AFFIDAVIT of Service for Summons and Complaint served on United States Attorney on 05/04/2016, filed by Michael Kuzma. (Irwin, Daire) (Entered: 06/04/2016)
06/15/2016	<u>3</u>	ANSWER to <u>1</u> Complaint by U.S. Department of Justice.(Cerrone, Michael) (Entered: 06/15/2016)
06/16/2016		ADR Plan electronically forwarded to attorneys. The ADR Plan is available for download at <a href="http://www.nywd.uscourts.gov/alternative-dispute-resolution(SG)">http://www.nywd.uscourts.gov/alternative-dispute-resolution(SG)</a> (Entered: 06/16/2016)
06/17/2016	4	TEXT ORDER: Pursuant to Federal Rule of Civil Procedure 26(f), the parties shall confer for the purposes set forth in Rule 26(f)(2) and to propose a Case Management Order that will establish outside cut-off dates for the further progress of this case, including: (1) motions to amend the pleadings or add parties; (2) to the extent required in this case, commencement and completion of all fact discovery; (3) to the extent required in this case, completion of all expert discovery, including strict compliance

		with Fed. R. Civ. P. 26(a)(2) regarding the identification and filing reports of testifying experts; (3) motions to compel; and (4) a proposed briefing schedule for any dispositive motions. Because this matter appears to be exempt from Rule 26(a)'s initial disclosure requirements (see Rule 26(a)(1)(B)(i)), the parties' proposed Case Management Order need not establish outside cut-off dates for Rule 26(a) disclosures. Further, because this case largely involves judicial review of administrative action, the Court, pursuant to Section 2.2(D) of the Court's ADR Plan, sua sponte exempts this case from automatic referral to the Court's ADR program. Thus, the parties need not address issues related to ADR in their Rule 26(f) report. The parties shall file their Rule 26(f) report on or before July 17, 2016. Any failure by a party or the party's attorney to participate in good faith in the development and submission of a proposed discovery plan required by Rule 26(f) or this Text Order may result in the award of expenses and attorney's fees to the other party caused by such failure. See Fed. R. Civ. P. 37(g). SO ORDERED. Issued by the Hon. Richard J. Arcara on June 17, 2016 (CMK) (Entered: 06/17/2016)
07/16/2016	<u>5</u>	First MOTION for Disclosure <i>Vaughn Index</i> by Michael Kuzma. (Attachments: # <u>1</u> Memorandum in Support)(Irwin, Daire) (Entered: 07/16/2016)
07/23/2016	<u>6</u>	First MOTION to Opt Out of ADR by Michael Kuzma.(Irwin, Daire) (Entered: 07/23/2016)
07/25/2016	<u>7</u>	TEXT ORDER: The Defendant's motion <u>6</u> to opt out of ADR is denied as moot given that the Court's prior scheduling order 4 sua sponte exempted this case from the Court's ADR program. The parties have not yet complied with the Court's prior order 4 directing them to file a Rule 26(f) report on or before July 17, 2016. The parties shall file a Rule 26(f) report, as directed in the Court's prior order, on or before August 3, 2016. In addition to the scheduling matters addressed in the Court's prior order, the parties shall propose dates for responding to the Plaintiff's motion for a <i>Vaughn</i> index. To the extent the parties are unable, after good faith discussions, to agree on proposed dates as directed in the Court's prior order, the parties' Rule 26(f) report shall indicate the scheduling items on which the parties cannot reach agreement, and each party's proposed date. SO ORDERED. Issued by the Hon. Richard J. Arcara on July 25, 2016 (CMK). (Entered: 07/25/2016)
08/03/2016	<u>8</u>	DISCOVERY PLAN by U.S. Department of Justice.(Cerrone, Michael) (Entered: 08/03/2016)
08/08/2016	<u>9</u>	SCHEDULING/CASE MANAGEMENT ORDER (Please Note: This docket text may <u>not</u> contain the entire contents of the attached Order. It is your responsibility to read the attached Order and download it for future reference. Direct any questions to the Chambers of the Judge who entered this Order.) Discovery completed by 8/31/2016. Motions to Join Parties/Amend Pleadings due by 8/31/2016. Dispositive Motions due by 2/15/2017. Responses due by 3/31/2017. Replies due by 4/15/2017.. Signed by Hon. Richard J. Arcara on 8/5/16. (SG) (Entered: 08/10/2016)
02/15/2017	<u>10</u>	MOTION for Summary Judgment <i>and dismissing plaintiff's complaint</i> by U.S. Department of Justice.(Cerrone, Michael) (Entered: 02/15/2017)
02/15/2017	<u>11</u>	DECLARATION signed by David M. Hardy re <u>10</u> MOTION for Summary Judgment <i>and dismissing plaintiff's complaint</i> filed by U.S. Department of Justice . (Cerrone, Michael) (Entered: 02/15/2017)
02/15/2017	<u>12</u>	STATEMENT OF FACTS by U.S. Department of Justice Related document: <u>10</u> Motion for Summary Judgment. (Cerrone, Michael) (Entered: 02/15/2017)
02/15/2017	<u>13</u>	MEMORANDUM IN SUPPORT re <u>10</u> MOTION for Summary Judgment <i>and dismissing plaintiff's complaint</i> by U.S. Department of Justice. (Cerrone, Michael) (Entered: 02/15/2017)
03/30/2017	<u>14</u>	First MOTION for Summary Judgment by Michael Kuzma. (Attachments: # <u>1</u> Statement of Undisputed Facts, # <u>2</u> Memorandum in Support, # <u>3</u> Affidavit Thomas M. Grace, # <u>4</u> Affidavit Laurel Jo Krause, # <u>5</u> Affidavit Brian Weidling, # <u>6</u> Affidavit Michael Kuzma, # <u>7</u> Exhibit Declaration of Michael Kuzma)(Irwin, Daire) (Entered: 03/30/2017)

04/14/2017	<u>15</u>	REPLY/RESPONSE to re <u>14</u> First MOTION for Summary Judgment , <u>10</u> MOTION for Summary Judgment <i>and dismissing plaintiff's complaint</i> filed by U.S. Department of Justice. (Cerrone, Michael) (Entered: 04/14/2017)
04/14/2017	<u>16</u>	DECLARATION signed by David M. Hardy re <u>14</u> First MOTION for Summary Judgment , <u>10</u> MOTION for Summary Judgment <i>and dismissing plaintiff's complaint</i> filed by U.S. Department of Justice . (Cerrone, Michael) (Entered: 04/14/2017)
06/21/2019	17	TEXT ORDER REFERRING CASE to Magistrate Judge Hon. Jeremiah J. McCarthy. The Magistrate Judge is hereby designated to act in this case as follows: Pursuant to 28 U.S.C. Section 636(b)(1)(A) and (B), all pre-trial matters in this case are referred to the above-named United States Magistrate Judge, including but not limited to: (1) conduct of a scheduling conference and entry of a scheduling order pursuant to Fed. R. Civ. P. 16, (2) hearing and disposition of all non-dispositive motions or applications, (3) supervision of discovery, and (4) supervision of all procedural matters involving the aforementioned or involving the preparation of the case or any matter therein for consideration by the District Judge. The Magistrate Judge shall also hear and report upon dispositive motions for the consideration of the District Judge pursuant to 28 U.S.C. Section 636(b)(1)(B) and (C). All motions or applications shall be filed with the Clerk and made returnable before the Magistrate Judge. The parties are encouraged to consider the provisions of 28 U.S.C. Section 636(c) governing consent to either partial or complete disposition of the case, including trial if necessary, by the Magistrate Judge. Consent forms are available from the office of the Magistrate Judge or the office of the Clerk of Court. IT IS SO ORDERED. Issued by Hon. Richard J. Arcara on 6/21/2019. (LAS) (Entered: 06/21/2019)
06/24/2019	18	TEXT ORDER: A status conference is scheduled for July 9, 2019 at 3:00 p.m. Counsel may appear in person or participate by telephone in the conference. For those electing to participate by telephone, the court has arranged a dial-in teleconference. To access the teleconference, the parties shall dial (703) 724-3100, enter access code 4100030#, and then pin 9999# sufficiently in advance of the conference. SO ORDERED. Issued by Hon. Jeremiah J. McCarthy on 6/24/19. (DAZ) (Entered: 06/24/2019)
06/24/2019	19	TEXT ORDER : At defendant's request and with plaintiff's consent, the July 9, 2019 status conference is rescheduled for July 18, 2019 at 02:00 PM before Hon. Jeremiah J. McCarthy. Counsel may appear in person or participate by telephone in the conference. For those electing to participate by telephone, the court has arranged a dial-in teleconference. To access the teleconference, the parties shall dial (703) 724-3100, enter access code 4100030#, and then pin 9999# sufficiently in advance of the conference. SO ORDERED. Issued by Hon. Jeremiah J. McCarthy on 6/24/19. (DAZ) (Entered: 06/24/2019)
07/18/2019	20	Minute Entry for proceedings held before Hon. Jeremiah J. McCarthy: Status Conference held on 7/18/2019. Discussed history of cases and pending motions. Court sets another status conference for September 18, 2019 at 2:00 PM. APPEARANCES: Daire Brian Irwin for plaintiff; Plaintiff Michael Kuzma; Michael Cerrone for defendant. (FTR GOLD) Associated Cases: 1:16-cv-00347-RJA-JJM, 1:19-cv-00597-RJA-JJM(DAZ) (Entered: 07/18/2019)
08/01/2019		CALENDAR EVENT : Status Conference set for 9/18/2019 at 02:00 PM before Hon. Jeremiah J. McCarthy. (DAZ) (Entered: 08/01/2019)
09/18/2019	21	Minute Entry for proceedings held before Hon. Jeremiah J. McCarthy: Status Conference held on 9/18/2019. Case No. 16-CV-347 is fully briefed. Parties continue to communicate and try to narrow the issues. Court sets a further conference for October 31, 2019 at 11:00 AM. APPEARANCES: Daire Brian Irwin with plaintiff Michael Kuzma; Michael Cerrone for defendant. (FTR GOLD) Associated Cases: 1:16-cv-00347-RJA-JJM, 1:19-cv-00597-RJA-JJM(DAZ) (Entered: 09/18/2019)
11/05/2019	<u>22</u>	REPORT AND RECOMMENDATION re <u>14</u> First MOTION for Summary Judgment filed by Michael Kuzma; <u>10</u> MOTION for Summary Judgment <i>and dismissing plaintiff's complaint</i> filed by U.S. Department of Justice. Objections to R&R due by 11/19/2019. Signed by Hon. Jeremiah J. McCarthy on 11/5/19. (DAZ) (Entered: 11/05/2019)
11/19/2019	<u>23</u>	OBJECTION to <u>22</u> Report and Recommendations by Michael Kuzma. (Irwin, Daire) (Entered: 11/19/2019)

11/20/2019	<u>24</u>	TEXT ORDER: Plaintiff has filed <u>23</u> objections to Magistrate Judge Jeremiah J. McCarthy's <u>22</u> Report and Recommendation. Response papers are due on December 4, 2019. Reply is due on December 18, 2019. SO ORDERED. Issued by Hon. Richard J. Arcara on 11/20/2019. (LAS) (Entered: 11/20/2019)
12/03/2019	<u>25</u>	MEMORANDUM IN SUPPORT re <u>10</u> MOTION for Summary Judgment <i>and dismissing plaintiff's complaint</i> by U.S. Department of Justice. (Cerrone, Michael) (Entered: 12/03/2019)